

**THIS DECISION HAS BEEN APPEALED. THE FOLLOWING  
IS THE RELATED SOAH DECISION NUMBER:**

**SOAH DOCKET NO. 453-05-5149.M5**

MDR Tracking Number: M5-05-1154-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution- General, 133.307 and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. This dispute was received on 12-10-04.

The IRO reviewed chiropractic manipulative treatment (spinal 3-4 regions), electrical stimulation unattended, mechanical traction, manual therapy technique, level II office visit, ultrasound and myofascial release rendered from 12-10-03 through 07-15-04 that were denied based upon "V".

The Medical Review Division has reviewed the IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. Consequently, the requestor is not owed a refund of the paid IRO fee.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was not the only issue** to be resolved. This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On 02-11-05, the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14-days of the requestor's receipt of the Notice.

CPT code 97012 dates of service 01-08-04 and 01-21-04 denied with denial code "D" (duplicate). Since neither party submitted original EOBs the services will be reviewed per Rule 134.202. Reimbursement is recommended per Rule 134.202(c)(1) in the amount of **\$35.82 (\$14.22 X 125% = \$17.91 X 2 DOS)**.

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay the unpaid medical fees in accordance with the Medicare program reimbursement methodologies effective August 1, 2003 per Commission rule 134.202(c), plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Order is applicable to dates of service 01-08-04 and 01-21-04 in this dispute.

This Findings and Decision is hereby issued this 15th day of March 2005.

Debra L. Hewitt  
Medical Dispute Resolution Officer  
Medical Review Division

DLH/dlh

Enclosure: IRO Decision

**IRO Medical Dispute Resolution M5 Retrospective Medical Necessity  
IRO Decision Notification Letter**

Date: 2/9/05 (Amended 2/11/05)  
Injured Employee:  
MDR : M5-05-1154-01  
TWCC #:  
MCMC Certification #: 5294

DETERMINATION: Denied

**Requested Services:**

Please review the item in dispute regarding 98941-chiropractic manipulative treatment, spinal, 3-4 regions; G0283-electrical stimulation unattended; 97012-mechanical traction; 97140-manual therapy technique; 99212-level II office visit; 97035-ultrasound, 97250-myofascial release; denied by carrier for medical necessity with "V" codes.

Dates of service in dispute: 12/10/2003 to 07/15/2004

Please do not review items/CPT codes marked "fee"

MCMC llc (MCMC) is an Independent Review Organization (IRO) that was selected by The Texas Workers' Compensation Commission to render a recommendation regarding the medical necessity of the above Requested Service.

Please be advised that a MCMC Physician Advisor has determined that your request for M5 Retrospective Medical Dispute Resolution on 12/30/04, concerning the medical necessity of the above referenced requested service, hereby finds the following:

The medical necessity for the services listed above, on the above captioned dates, is not established.

This decision is based on:

- TWCC Notification of IRO Assignment dated 12/30/04
- TWCC MR-117 12/30/04
- TWCC-60 stamped received 12/10/04
- TWCC 73 dated 2/19/03 Liberty Mutual: Explanation of Benefits for DOS 12/2/03 to 7/15/04
- Sherrod Chiropractic Clinic: Case Summary undated; SOAP notes for DOS 9/19/2003, 9/24/2003, 12/10/03 to 07/15/04 16 pgs; Workers Comp Patient Questionnaire dated 12/10/03, 12/24/03 (2), 1/8/04, 1/21/04, 2/15/04, 3/19/04, 4/19/04, 5/7/04, 7/13/04, 7/15/04
- TWCC 69 dated 2/17/04
- Open Air MRI of Amarillo: MRI of lumbar spine done 6/23/03
- Professional Reviews, Inc: Chiropractic Modality Review dated 10/24/03

Records indicate that the above captioned individual was allegedly injured as a result of an occupational incident. The history reveals that the above captioned individual reported a work-related fall to have occurred on \_\_\_\_\_. The injured individual apparently did not seek care for several weeks, but eventually sought the care and advice of the Attending Provider (AP). MRI findings include multi-level disc lesions with canal narrowing at L2-5 and neural foraminal narrowing at multiple levels as well. Care to date has included chiropractic management, rehab, and injections.

The documentation does not provide the rationale or substantiate the medical necessity for the services listed above occurring on the above listed dates of service. It is not established within the supplied documentation as to what response to care had been previously achieved that would warrant an additional course of care. It is obvious that the injured individual had significant complicating factors evidenced by positive MRI findings, however the care represented within the dates of service in question would represent a protracted and unusually lengthy course of care. This protracted course of care could only be substantiated by clear clinical evidence that the injured individual had previously therapeutically benefited from the prior course of care and that it could be reasonably expected that an additional course of care would result in additional therapeutic gain.

No initial examination is submitted for review that establishes a baseline of objective data and similarly, no follow-up examinations are represented in the documentation to establish that objective progress was being achieved through the lengthy course of care. Also the SOAP notes do not clearly establish that progress was being achieved through comparative objective findings. The establishment of objective progress would be paramount to substantiating the medical necessity of the care in question and would be consistent with standards of care and practice within the chiropractic profession.

Moreover, a review of the daily SOAP notes associated with the dates of service listed above reveals that subjective findings indicates a regression of symptomatology through the dates of service in question. On 12/10/2003, subjective reporting of pain levels indicates 7-8/10 on a 1-10 pain scale. These reported pain levels never significantly dropped through the course of care represented through 07/15/2004.

Given the lack of documentational evidence of clear subjective and objective progress prior to and during the dates of service in question, the medical necessity of the care listed above is not established

The reviewing provider is a Licensed Chiropractor and certifies that no known conflict of interest exists between the reviewing Chiropractor and any of the treating providers or any providers who reviewed the case for determination prior to referral to the IRO. The reviewing physician is on TWCC's Approved Doctor List.

This decision by MCMC is deemed to be a Commission decision and order (133.308(p) (5).

**In accordance with commission rule 102.4(h), I hereby verify that a copy of this  
Independent Review Organization (IRO) Decision was sent via facsimile to the office of  
TWCC on this**

**9<sup>th</sup> day of February 2005.**

**Signature of IRO Employee: \_\_\_\_\_**

**Printed Name of IRO Employee: \_\_\_\_\_**